

SENATE BILL NO. 6

INTRODUCED BY J. ESP

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA SAFE HAVEN NEWBORN PROTECTION ACT; CLARIFYING THE AVAILABILITY OF INFORMATION CONCERNING COUNSELING; AMENDING SECTION 40-6-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-6-405, MCA, is amended to read:

"40-6-405. Surrender of newborn to emergency services provider -- temporary protective custody. (1) If a parent surrenders an infant who may be a newborn to an emergency services provider, the emergency services provider shall comply with the requirements of this section under the assumption that the infant is a newborn. The emergency services provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody, and shall take action necessary to protect the physical health and safety of the newborn.

(2) The emergency services provider shall make a reasonable effort to do all of the following:

(a) if possible, inform the parent that by surrendering the newborn, the parent is releasing the newborn to the department to be placed for adoption according to law;

(b) if possible, inform the parent that the parent has 60 days to petition the court to regain custody of the newborn;

(c) if possible, ascertain whether the newborn has a tribal affiliation; and, if so, ascertain relevant information pertaining to any Indian heritage of the newborn;

(d) provide the parent with written material approved by or produced by the department, which includes but is not limited to all of the following statements:

(i) by surrendering the newborn, the parent is releasing the newborn to the department to be placed for adoption and the department shall initiate court proceedings according to law to place the newborn for adoption, including proceedings to terminate parental rights;

(ii) the parent has 60 days after surrendering the newborn to petition the court to regain custody of the

1 newborn;

2 (iii) the parent may not receive personal notice of the court proceedings begun by the department;

3 (iv) information that the parent provides to an emergency services provider will not be made public;

4 (v) a parent may contact the ~~safe delivery line established under 40-6-415~~ department for more
5 information and counseling; and

6 (vi) any Indian heritage of the newborn brings the newborn within the jurisdiction of the Indian Child
7 Welfare Act, 25 U.S.C. 1901, et seq.

8 (3) After providing a parent with the information described in subsection (1), if possible, an emergency
9 services provider shall make a reasonable effort to:

10 (a) encourage the parent to provide any relevant family or medical information, including information
11 regarding any tribal affiliation;

12 (b) provide the parent with ~~the pamphlet produced under 40-6-415 and inform the parent~~ information
13 that the parent may receive counseling or medical attention;

14 (c) inform the parent that information that the parent provides will not be made public;

15 (d) ask the parent for the parent's name;

16 (e) inform the parent that in order to place the newborn for adoption, the state is required to make a
17 reasonable attempt to identify the other parent and to obtain relevant medical family history and then ask the
18 parent to identify the other parent;

19 (f) inform the parent that the department can provide confidential services to the parent; and

20 (g) inform the parent that the parent may sign a relinquishment for the newborn to be used at a hearing
21 to terminate parental rights."

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23 COORDINATION SECTION. **Section 2. Coordination instruction.** If both LC0066 and [this act] are
24 passed and approved and if both bills amend 40-6-405, then the amendments to 40-6-405 in LC0066 are void.

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26 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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